

FILED

FEB 27 2013

FOR PUBLICATION

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TYMOND J PRESTON,

Defendant - Appellant.

No. 11-10511

D.C. No. 3:10-cr-08026-GMS-1
District of Arizona,
Prescott

ORDER AMENDING OPINION

Before: FARRIS, NOONAN, and BYBEE, Circuit Judges.

The opinion filed on February 5, 2013 is amended as follows:

On slip Opinion page 26, lines 7–10, remove the following text: [Preston failed to move for acquittal at the close of the evidence, so we reverse only for plain error. *United States v. Delgado*, 357 F.3d 1061, 1068 (9th Cir. 2004).]

On slip Opinion page 26, line 12, change the following text: [any] to [*any*]

On slip Opinion page 26, line 14, change the following text: [*Id.* (citations and emphasis omitted).] to [*Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (emphasis in original); *United States v. Atkinson*, 990 F.2d 501, 503 (9th Cir. 1993) (en banc).]

On slip Opinion page 27, line 1, change the following text: [reasonable] to [rational]

On slip Opinion page 27, line 13, change the following text: [reasonable] to [rational]

On slip Opinion page 27, lines 13–14, change the following text: [*Delgado*, 357 F.3d at 1068.] to [*Jackson*, 443 U.S. at 319.]